

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

RANDALL SMITH

Plaintiff,

v.

**JPMORGAN CHASE BANK, N.A.,
QUALITY RECOVERY SERVICE,
INC., AND ALS RESOLVION, LLC.**

Defendants.

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**CIVIL ACTION NO. 2:16-CV-1051-
JRG-RSP**

DEFENDANT ALS RESOLVION, LLC'S ORIGINAL ANSWER

Defendant ALS Resolvion, LLC files this Answer to Plaintiff Randall Smith's Complaint.

DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT

I. Operative Facts

1. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

2. Defendant denies that Chase hired it to repossess the subject vehicle, and Defendant denies that it hired Quality to repossess the subject vehicle. Defendant further denies that it breached the peace in connection with the repossession of the subject vehicle. For the remainder of this paragraph, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made by Plaintiff.

3. Defendant denies that it damaged Plaintiff's vehicle in connection with the repossession of the subject vehicle. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph

about Defendant Quality.

4. Defendant denies the allegations made in this paragraph.

5. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

6. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

II. Jurisdiction and Venue

7. Defendant admits that this Court has jurisdiction over this case.

8. Defendant admits that venue is proper in this Court.

III. Parties

9. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

10. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

11. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

12. Defendant admits the allegations made in this paragraph.

13. Defendant denies the allegations made in this paragraph.

IV. First Cause of Action (Against Defendants Quality and ALS for Violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.)

14. Defendant incorporates its responses to paragraphs 1-13.

15. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph. Defendant denies that it was a "debt collector" in connection with the repossession of the subject vehicle.

16. Defendant denies the allegations made in this paragraph.

17. Defendant denies the allegations made in this paragraph.

18. Defendant denies the allegations made in this paragraph.

19. Defendant denies the allegations made in this paragraph.

20. Defendant denies the allegations made in this paragraph.

V. Second Cause of Action (Against Chase Bank for Violations of the UCC)

21. Defendant incorporates its responses to paragraphs 1-20.

22. Defendant denies the allegations made in this paragraph.

23. Defendant denies the allegations made in this paragraph.

24. Defendant denies the allegations made in this paragraph.

25. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

26. Defendant denies the allegations made in this paragraph.

VI. Third Cause of Action (Against Chase Bank for Violations of the Texas Motor Vehicle Installment Sales Act, TEX. FIN. CODE § 348.001 et seq.)

27. Defendant incorporates its responses to paragraphs 1-26.

28. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

29. Defendant denies the allegations made in this paragraph.

30. Defendant denies the allegations made in this paragraph.

VII. Fourth Cause of Action (Against all Defendants for Violations of the Texas Fair Debt Collection Practices Act, TEX. FIN. CODE § 392.001 et seq.)

31. Defendant incorporates its responses to paragraphs 1-30.

32. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

33. Defendant denies the allegations made in this paragraph.

34. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

35. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

36. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

37. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

38. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

39. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

40. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

41. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations made in this paragraph.

42. Defendant denies the allegations made in this paragraph.

43. Defendant denies the allegations made in this paragraph.

44. Defendant denies the allegations made in this paragraph.

AFFIRMATIVE DEFENSES

1. Any damages Plaintiff allegedly sustained were proximately caused, in whole or in part, by the acts or omissions of parties over whom Defendant exercised no control. Such acts or omissions constitute the new and independent, intervening, superseding, or sole proximate cause of any damages complained of by Plaintiff.

2. Defendant is not a "debt collector" pursuant to 15 U.S.C. § 1692a and thus cannot be liable for any alleged breach of the peace in connection with the repossession of the subject vehicle.

3. Defendant is not a "creditor" pursuant to TEX. FIN. CODE § 392.001.

4. Defendant does not hold a security in Plaintiff's vehicle and therefore does not qualify as a secured party under TEX. BUS. & COM. CODE § 9.609.

DEFENDANT'S REQUEST FOR RELIEF

BASED ON THE FOREGOING, Defendant ALS Resolvion, LLC respectfully requests that:

- a. Plaintiff take nothing by its claims against it;
- b. Plaintiff's claims against it be dismissed with prejudice;
- c. Defendant recover from Plaintiff its costs incurred in defending this lawsuit; and
- d. Such other and further relief, in law or equity, to which Defendant may be justly entitled.

THOMPSON COE COUSINS & IRONS

By: /s/ George (Trey) N. Wilson, III

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

On May 15, 2017, I electronically submitted the foregoing document to the Clerk of the Court for the U.S. District Court, Eastern District of Texas, using the electronic case filing system. I hereby certify that I have served the following counsel of record electronically:

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/s/ George (Trey) N. Wilson, III
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